


BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2000-317-C - ORDER NO. 2000-987  
DECEMBER 15, 2000

IN RE: Application of PT-1 Counsel Inc. for a	)	ORDER
Certificate of Public Convenience and	)	GRANTING
Necessity to Operate as a Reseller of	)	CERTIFICATE FOR
Interexchange Telecommunications Services	)	LONG DISTANCE
within the State of South Carolina.	)	AUTHORITY



This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of PT-1 Counsel Inc. ("PT-1 Counsel" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate resold interexchange telecommunications services between and among locations within the State of South Carolina as a non facilities-based interexchange telecommunications service provider. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1999) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed PT-1 Counsel to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of PT-1 Counsel's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this

instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on November 22, 2000, at 11:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. PT-1 Counsel was represented by Scott A. Elliott, Esquire. Adelaide D. Kline, Staff Counsel, represented the Commission Staff. Barbara J. Crawford, Auditor III, and David S. Lacoste, Engineer in Utilities Department, testified on behalf of the Commission Staff.

Mr. Gary Wasserson, President and Chief Executive Officer of PT-1 Counsel, Inc., and the sole director of the Company, appeared and testified in support of the Application. Mr. Wasserson testified he is also President and Chief Executive Officer of Counsel Communications LLC, the parent company of PT-1 Counsel. He explained that Counsel Communications LLC is in the process of acquiring PT-1 Counsel, Inc. which will operate as a subsidiary of the parent company under the name PT-1 Long Distance, Inc.; the transaction is expected to take place the middle part of December, 2000. The record reveals that Mr. Wasserson entered the telecommunications industry by founding Global Link, a pioneer in prepaid phone cards, in 1993. He sold Global Link to Global Telecommunications Solutions (GTS) in 1997. According to the record, GTS is the first publicly traded prepaid card company in the United States.

Upon receiving certification from the Commission, PT-1 Counsel plans to provide resold interexchange telecommunications services to the public on a statewide basis. The Company plans to offer prepaid calling cards and dial around casual calling

(1010XXXX) products in South Carolina, operating solely as a switchless reseller; it does not plan to construct any facilities in South Carolina. Mr. Wasserson explained that PT-1 Counsel is a Delaware corporation. Mr. Wasserson said that PT-1 Communications currently has over 350 employees and a half million dollars in revenue throughout the United States. He said that PT-1 Counsel's prepaid calling cards will be distributed by master distributors to the retail trade throughout the United States. He said his company will enter into agreements with certain major organizations who will then physically distribute the PT-1 prepaid telephone calling to customers such as Amoco and Western Union. Those retailers sell the non-rechargeable prepaid calling cards to end users at their retail locations. The record reveals the Company markets its services through direct mail and the mass media. Mr. Wasserson stated his Company is aware of the Commission's requirement to post a \$5,000 bond as a condition of providing prepaid calling card services in South Carolina and intends to comply with that requirement.

As of the hearing date, PT-1 Counsel had received certification to provide its telecommunications services in forty states and the District of Columbia; has applications pending in all remaining states except Alaska. Mr. Wasserson testified that the Company is currently operating in good standing in all the states where it has been certified to provide its services. According to Mr. Wasserson, PT-1 Counsel has never had authority denied in any state where it has applied for authority nor has the Company had authority revoked in any state where it has been granted authority. Additionally, he said that PT-1 Counsel has never been the subject of an investigation, fined or sanctioned by a state or federal regulatory body.

Regarding the Company's technical ability to offer telecommunications services in South Carolina, Mr. Wasserson testified that the Company's name, toll-free telephone number, and Internet website address will appear on the prepaid calling card. He further stated the Company's customer service telephone number will be answered eighteen hours a day, seven days a week, by a live person; he said a voice response unit will be available at all other times so that customer's concerns can be responded to as soon as practicable after the customer service department opens the next day. Mr. Wasserson offered that repairs are responded to on a twenty-four hour a day, seven day a week basis, by a network operations center which gives the Company a good view of the flow of the network. He further stated that PT-1 Counsel utilizes over 150 carriers such as MCI WorldCom and AT&T on a global basis. Rosalind Gaffney is the Company's regulatory contact person and can be reached at (718) 939-9000.

As to PT-1 Counsel's managerial abilities to offer the services it proposes to offer in South Carolina, Mr. Wasserson testified that the Company's key management team has extensive experience in the telecommunications industry. He said that his educational background includes a degree in accounting and finance from Babson College in Wellesley, Massachusetts. The record reveals he has approximately twenty-one years of business experience in launching companies. Prior to joining Counsel Corporation, Mr. Wasserson was President and Chief Executive Officer of Call Sciences/Virtel of Edison, New Jersey, and Slough, England, a major provider of enhanced telecommunications services deliverable over global intelligent networks. Mr. Wasserson testified that Allan Silber is the Company's Treasurer and Bridget O'Connor is the Company's Secretary. Mr.

Silber is the Chairman and Chief Executive Officer of Counsel Corporation which he founded in 1979. Mr. Silber received a bachelor's degree from the University of Toronto.

Mr. Wasserson testified that PT-1 Counsel will rely on its parent company for financial support. He said the parent company is an international company, is a publicly traded company on the NASDAQ Exchange, is very strong financially, and recently sold some of its pharmaceutical holdings which will net \$100 M in cash proceeds.

Ms. Crawford testified as to her findings of the Audit Department's review of Counsel Corporation's audited consolidated financial statements that were submitted as part of the Company's Application. She stated she reviewed financial statements included in the Application that were dated as of December 31, 1998 and December 31, 1999. According to Ms. Crawford, the Company's financial position had remained financially strong and it had a fairly strong cash position at year-end. She testified that the Company's balance sheet indicated that cash made up 7% of the affiliate's total assets on December 31, 1999. Ms. Crawford also testified that the Company has the financial backing of its parent organization, and she determines the Company's business plan to be financially strong and in a position to fund PT-1's operations in South Carolina.

Mr. Lacoste presented testimony to the Commission on the Utilities Department's findings with respect to PT-1 Counsel's Application for a Certificate of Public Convenience and Necessity. Lacoste's testimony includes several recommended changes to the Company's tariff. The Company agreed to make the Commission Staff's suggested changes to its final tariff.

According to the Application and Mr. Wasserson's testimony, PT-1 Counsel requests waivers of 26 S.C. Code Ann. Regs. 103-610 (1976) so that PT-1 Counsel can maintain its records outside of South Carolina. The Company wishes to maintain its books and records at its headquarters in New York; it will keep South Carolina specific records. Mr. Wasserson stated that the Company is aware and agrees to abide by the Commission's regulation that requires that these records be made available for examination by the Commission at reasonable hours. PT-1 Counsel also requested that it be allowed to keep its books and financial records according to the Generally Accepted Accounting Principles (GAAP) rather than according to the Uniform System of Accounts (USOA).

According to the testimony, PT-1 Counsel has not marketed its services in South Carolina prior to receiving certification. Additionally, the Company has not provided local or long distance services in South Carolina or received revenues from the completion of intrastate calls in South Carolina prior to receiving certification. Finally, Mr. Wasserson testified PT-1 Counsel will abide by all the Commission's rules, regulations and Orders upon the Company receiving certification to operate as a reseller of intrastate interexchange telecommunications services in South Carolina.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

### **FINDINGS OF FACT**

1. PT-1 Counsel is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. PT-1 Counsel operates as a non facilities-based reseller of interexchange services and wishes to provide its services in South Carolina.

3. PT-1 Counsel has the experience, capability, and financial resources to provide the services as described in its Application.

### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to PT-1 Counsel to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for PT-1 Counsel for its resale of interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. PT-1 Counsel shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. PT-1 Counsel shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 1999).

4. If it has not already done so by the date of issuance of this Order, PT-1 Counsel shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. PT-1 Counsel is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.



6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. PT-1 Counsel shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If PT-1 Counsel changes underlying carriers, it shall notify the Commission in writing.

8. PT-1 Counsel shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). The title of this form is "Annual Information on South Carolina Operations For Interexchange Companies and AOS". Be advised that the Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. PT-1 Counsel shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the Commission's website at

[www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms); this form shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

10. With regard to the origination and termination of toll calls within the same LATA, PT-1 Counsel shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dial parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. By its Application and testimony at the hearing, PT-1 Counsel requested a waiver from the Commission's requirement to maintain its books within the State of South Carolina according to 26 S.C. Code Ann. Regs. 103-610 (1976). The Commission grants the Company's request to waive the record keeping regulation so that its books and records may be kept at its principal office and headquarters in New York. The Commission also grants PT-1 Counsel the opportunity to keep its books and records in accordance with GAAP rather than the USOA.


12. As a condition of offering debit card services, the Commission requires the Company to post with the Commission a bond in the form of a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000 which is payable to the Commission. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and

loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition may be reviewed annually.

13. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:

  
Executive Director

(SEAL)